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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,274	06/10/2002	Christine Schroeder	H 4124 PCT/US	8291

423 7590 07/02/2003

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[REDACTED] EXAMINER

DODSON, SHELLEY A

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

1616

DATE MAILED: 07/02/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/018,274	Applicant(s) SCHROEDER ET AL.
	Examiner SHELLEY A. DODSON	Art Unit 1616
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>		
Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>THREE(3)</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. <ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 		
Status <p>1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>PRELIMINARY AMENDMENTS FILED 06/10/2002</u></p> <p>2a) <input type="checkbox"/> This action is FINAL. 2b) <input checked="" type="checkbox"/> This action is non-final.</p> <p>3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11; 453 O.G. 213.</p>		
Disposition of Claims <p>4) <input checked="" type="checkbox"/> Claim(s) <u>12-32</u> is/are pending in the application.</p> <p>4a) Of the above, claim(s) _____ is/are withdrawn from consideration.</p> <p>5) <input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6) <input checked="" type="checkbox"/> Claim(s) <u>12-32</u> is/are rejected.</p> <p>7) <input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.</p>		
Application Papers <p>9) <input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10) <input type="checkbox"/> The drawing(s) filed on _____ is/are a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p> <p>11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.</p> <p>12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>		
Priority under 35 U.S.C. §§ 119 and 120 <p>13) <input checked="" type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) <input checked="" type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of: 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input checked="" type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p>		
<p>*See the attached detailed Office action for a list of the certified copies not received.</p> <p>14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e). a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.</p> <p>15) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</p>		
Attachment(s) <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). <u>06</u></p> <p>4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____</p>		

DETAILED ACTION

Claims 12-32 are pending in this application filed 06/10/2002.

Applicant's claims are directed toward use of nanoscalar antimicrobial active ingredients in body deodorants.

Claim Rejections - 35 USC § 103

15.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16.

Claims 12-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rase et al USP 5,169,631, cited and supplied by applicant in view of Model et al USP 3,800,048.

Rase et al disclose topical antimicrobial compositions comprising microcapsules containing an antimicrobial agent. In

column 2, Rase further discloses that the referenced compositions are used for body deodorants in the form of sprays, creams, gels, powders, sticks or roll-ons. In column 1, Rase further discloses that said compositions are known to prevent odor by controlling against gram-positive bacteria. Rase discloses each and every aspect of the invention as claimed by the applicant with the exception of claiming the specific active antimicrobial agents claimed by the applicant.

Model et al. discloses compositions useful in bactericidal compositions. In column 1, Model further discloses that said agents prevent or control the growth of gram positive bacteria. In column 2, Model further discloses that 2,4,4'-trichloro-2'-hydroxydiphenyl ether is the active antimicrobial agent employed. In column 4, Model further discloses that the hydroxydiphenyl ether actives are in combination with salicylic acid amides.

It would have been obvious to one of ordinary skill in this art at the time the invention was made to have included the specific antimicrobial agents of Model into the compositions of Rase et al in view of the teachings of Model that said active agents are known antimicrobial agents and prevent and control odor produced by gram-positive bacteria.

17.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mondello et al USP 6,552,214 B2 has been cited to show that salicylic acid amides and 2,4,4'-trichloro-2'-hydroxydiphenyl ethers are known antimicrobial agents.

18.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley A. Dodson whose telephone number is (703) 308-2445. The examiner can normally be reached on Monday-Thursday from 7:30 a.m. to 5:00 p.m. The examiner can also be reached on alternate Fridays.

The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7922. A facsimile center has been established in Crystal Mall 1, Room 7C11. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. This new location should be used in all instances when faxing any correspondence numbers to Group 1600. The Patent examining Fax Center telecopier numbers are (703) 308-7922 and (703) 308-4556. Use of the new Crystal Mall 1 Center will facilitate rapid delivery

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of materials to the Group. The faxing of all papers must conform with the notice published in the Official Gazette, 109 O.G. 30 (November 15, 1989).



Shelley A. Dodson
Primary Examiner
Art Unit 1616

June 30, 2003